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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/565,051

05/11/2006

Jerry Moore

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24283

7590

12/28/2007

PATTON BOGGS LLP
1801 CALIFORNIA STREET
SUITE 4900
DENVER, CO 80202

EXAMINER

LEE, Y MY QUACH

ART UNIT

PAPER NUMBER

2885

MAIL DATE

DELIVERY MODE

12/28/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/565,051

Applicant(s)

MOORE, JERRY

Examiner

Lee Y Quach

Art Unit

2885

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/11/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-10 and 12 is/are rejected.
- 7) ☒ Claim(s) 4-6 and 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 6/14/06.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

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DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: Page 7, line 9, there is a typographical error such as the term "for". It is suggested that this term be changed to "--form--". Appropriate correction is required.

Claim Objections

2. Claims 1 to 9, 11 and 12 are objected to because of the following informalities: In claim 1, line 5, there is no clear antecedent basis for "said material". Claims 2 to 7 depend on objected claim 1 and as such are also objected. In claim 8, line 3, there is no clear antecedent basis for "said material". Claim 9 depends on objected claim 8 and as such is also objected. In claim 11, there is no structural relationship between the cam element and the container. It is not clear how the cam element and the container situate with respect to one another such that there is a functioning apparatus. In claim 12, line 5, there is no clear antecedent basis for "said cap". Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1 to 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Mocha.

Mocha shows a light emitting diode (22, column 4, line 2) having a dielectric casing (18), a solid flexible rod (column 3, lines 43 to 46) having an elongated length dimension terminated by a first end and a second end (figure 1), the material having sufficient clarity and being sufficiently dispersive of light such that light entering one of the ends is transmitted along the elongated length dimension and radiates from the rod in substantially all directions along a substantial portion of the length of the rod (column 3, line 37), the first end of the rod embedded in the dielectric casing (figures 2, 3, 5), an attachment mechanism (figure 6, column 4, line 10)

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connected to the rod for stably connecting the rod to an object (50), an electronics container (27) housing the light emitting diode, a battery (45, 46) and a switch (inherently included feature to illuminate the light), and the attaching mechanism incorporated into the container (the screw threaded into the bore of the receptacle in the container).

5. Claims 8 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Currie et al.

Currie et al. show a method of illuminating an object (tree trunk, figure 14) comprising providing an illumination device including a solid flexible rod (12, 28) having an elongated length dimension terminated by a first end and a second end, the material having sufficient clarity and being sufficiently dispersive of light such that light entering one of the ends is transmitted along the elongated length dimension and radiates from the rod in substantially all directions along a substantial portion of the length of the rod (paragraph 0056, lines 5 to 15), a light emitting diode (42a, 42b, paragraph 0060, line 23) located to illuminate the first end of the flexible rod, looping the flexible rod about the object (figure 14, paragraph 0078, lines 9 to 12), and including adjusting the size of the loop (adjusting the size of the loop manually through the hands of a user).

6. Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by Smith.

Smith shows a flexible light transmitting rod (18, 46) having a first end, a light source located to illuminate the first end of the rod, the light source comprising a light emitting diode (12, 44) comprising a semiconductor chip embedded in a dielectric casing (16), and a pair of electrical leads (50, 51) attached to the semiconductor chip, a battery (32, 52), and the electrical leads directly contact the battery (figures 2 and 3b).

7. Claim 12 is rejected under 35 U.S.C. 102(b) as being anticipated by Scharf, III.

Scharf, III shows a method for switching an illumination apparatus including a flexible light transmitting rod (56, 60) having a first end, a light source (34) located to illuminate the first end, the method comprising providing a base element (12) and a cover (68) enclosing the light source, and rotating a cap (26) with respect to the base element to switch the illumination on or off.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2885

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mocha.

Mocha discloses the invention substantially as claimed with the exception of disclosing the material of the rod.

With regards to the rod made of a thermoplastic material, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to select the thermoplastic material as claimed in an attempt to enhance the light conversion qualities and conductivities since it has been held that the selection of known material based on its suitability for the intended use for the prior art parts does not make the claimed invention patentable over the prior art. In re Leshin, 125 USPQ 416.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

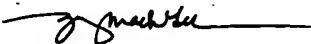
Peng is cited to show a flexible rod (11) having an elongated dimension terminated in a first end and as second end, the first end coupling to a light emitting diode (31), an attachment mechanism (20) connected to the rod, an electronics container (30, 40) housing the light emitting diode, a battery (40) and a switch (42), and the flexible rod forming a loop connected to an object (52).

11. Claims 4 to 6 and 11 would be allowable if rewritten to overcome the objection set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Y Quach Lee whose telephone number is 571-272-2373. The examiner can normally be reached on Monday to Thursday from 8:30 am to 2:30 pm.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the customer service 571-272-2815.

Y. Q.
December 11, 2007


Y Quach Lee
Primary Examiner
Art Unit 2885

Art Unit: 2885

DETAILED ACTION

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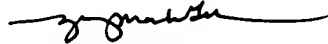
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